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H.B. 692
(1_133_2335-3)
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 692's Bill Analysis](#)

Version: In House Civil Justice

Primary Sponsor: Rep. Swearingen

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill may generate significant annual expenses for the probate divisions of certain courts of common pleas to establish and maintain an electronic will filing system and to adjudicate potentially complex cases to confirm a will's validity. The payment of costs and allowable fees to the probate division for filing and hearings will likely generate some offsetting revenue.
- The bill has no readily apparent direct fiscal effect on the state.

Detailed Analysis

The bill allows for the electronic notarization and execution of a will, a living will, a power of attorney, a durable power of attorney for health care, and a transfer on death designation affidavit for real property. Probate courts and clerks of court are likely to realize increased expenses to accept, maintain, protect, and archive these electronic documents. Technology-related expenses will likely vary from court to court depending on current systems and capacity. Some courts may be capable of handling the bill's requirements while others may need to implement a new system or upgrade an outdated file management or storage system. For the latter courts, expenses could be significant, while additional costs related to data storage, and especially ongoing data storage, could prove more than minimal for all courts depending on the volume of electronic documents to be stored.

In addition, through the Judicial Conference, judges have expressed concerns that cases based on electronic documents may be more complex, requiring additional court time and investigators, as well as forensic accounting of the electronic documents to determine their validity. Increased costs due to complexity will likely vary by jurisdiction and case by case.

Costs may be offset to some degree by the collection of a \$25 fee which, under continuing law, is assessed for the deposit of a will with the probate court. The bill requires a copy of an electronic will to be deposited in the office of the judge of the probate court, whereas it is permitted for written wills. Probate courts may charge other fees for and assess costs for the affected processes and resultant hearings as under continuing law.

Synopsis of Fiscal Effect Changes

There are no substantive differences between the fiscal impacts of the substitute version of the bill (I_133_2335-3) as compared to that of the version of the bill As Introduced. The substitute version includes provisions that: (1) require witnesses for a durable power of attorney for health care that is executed electronically, an oral will, or a living will that is executed electronically be located within the state, and (2) require the signing of an electronic will be recorded with both audio and visual components.